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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,613	08/25/2003	Justin M. Crank	1001.1686101	2850
28075	7590	01/10/2006		
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420				
			EXAMINER HOEKSTRA, JEFFREY GERBEN	
			ART UNIT 3736	PAPER NUMBER

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

TMR

Office Action Summary	Application No. 10/647,613	Applicant(s) CRANK, JUSTIN M.	
	Examiner Jeffrey G. Hoekstra	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,6,8,12,13,15,17,20,23,24,27,30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7,9-11,14,16,18,19,21,22,25,26,28,29 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I and Species D in the reply filed on 01/03/2006 is acknowledged. The examiner concurs that claims 1 and 10 are generic to each identified species.
2. Claims 3, 4, 6, 8, 12, 13, 15, 17, 20, 23, 24, 27, 30 and 31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 01/03/2006.

Information Disclosure Statement

3. The information disclosure statement(s) (IDS) submitted on 12/01/2003 and 12/09/2004 is/are acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statement(s).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 5, 7, 9-11, 14, 16, 18, 19, 21, 22, 25, 26, 28, 29 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Samson et al (5827201). For claims 1, 10, 19, and 26, Samson et al discloses a medical guidewire 100 comprising a tapered

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elongate shaft 142 coupled to a coil 132 of composite wire or ribbon helically disposed and comprised of two different materials (column 8 lines 10-13) wherein the outer material is for example a radiopaque coating (column 15 lines 4-7) and has a larger Young's modulus than that of the inner material. In addition the composite wire comprising a cross-section with a centroid, a moment of inertia with respect to an axis running through the centroid and parallel to the longitudinal axis of the coil, and a moment of inertia with respect to an axis running through the centroid and parallel to the radial axis of the coil, wherein the moment of inertia with respect to an axis running through the centroid and parallel to the longitudinal axis of the coil is greater than the moment of inertia with respect to an axis running through the centroid and parallel to the radial axis of the coil.

6. The examiner notes for example the Young's modulus of a typical radiopaque coating, tungsten carbide, is equal to 450 – 650 GPa whereas the Young's modulus for the inner material, Nitinol, ranges from 28 – 75 GPa depending upon stressed state of the crystalline structure which dictates either an austenite or martensite phase.

7. For claims 2, 11, 21, 22, 28, and 29, Samson et al discloses a wire of polygonal and rectangular cross section (column 9 lines 54-58).

8. For claims 5, 14, 25, and 32, Samson et al discloses wire formed of material with a Poisson's ratio ranging from 0.25 – 0.5.

9. The examiner notes for example the Poisson's ratio of Nitinol is equal to 0.3 and that of Tungsten is equal to 0.28.

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10. For claims 7 and 16, Samson et al discloses a coil 132 of composite wire or ribbon helically disposed and comprised of two different materials (column 8 lines 10-13) wherein the outer material is for example a radiopaque coating (column 15 lines 4-7) and has a larger Young's modulus than that of the inner material.

11. For claims 9 and 18, Samson et al discloses a wire of polygonal and rectangular cross section (column 9 lines 54-58).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGH

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